

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
AT INDIANAPOLIS**

IN RE:

Julia Ann Russell  
Robert Lewis Russell

Debtor(s).

CASE NO. 07-12538

Chapter 13

Judge Frank J. Otte

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**MOTION FOR RELIEF FROM AUTOMATIC STAY WITH 30 DAY WAIVER**

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Comes now CitiMortgage, Inc ("Movant"), and, through counsel, moves pursuant to 11 U.S.C. Section 362 for an Order terminating the automatic stay with respect to certain property owned by the Debtor in which Movant has a security interest. In support of this Motion, Movant states as follows:

1. On December 19, 2007 Julia Ann Russell and Robert Lewis Russell ("Debtor") filed a petition for relief under Chapter 13 of the Bankruptcy Code.
2. Prior to the filing of the petition, Movant was granted a security interest in certain real property owned by the Debtor. The Mortgage Lien is in the real property described as See legal attached. Commonly known as 6432 West 600 South, Trafalgar, IN 46181. ("Real Property")
3. The Mortgage was recorded with the Johnson County Records Office.
4. Except with respect to the real estate taxes and assessments, the Mortgage Lien is the first lien in the Real Property. Upon information and belief, there are no other lienholders with respect to the Real Property.

5. Since the filing of the petition, Debtor has not made payments to Movant in accordance with the Note secured by the Mortgage and the Chapter 13 Plan. Debtor has not made any payments due for the months of April 1, 2008 to June 1, 2008.

6. As of the filing of this Motion, Debtor is indebted to Movant in the amount of \$149,271.93 plus interest, late fees, expenses and other charges.

7. Last payment received on April 6, 2008 in the amount of \$2,700.00.

8. Additionally, Movant contends that the Debtor is unable to make adequate protection payments, has failed to make payments in accordance with the Chapter 13 plan and, therefore, Movant is entitled to relief from the automatic stay.

9. Movant contends that sufficient cause exists to waive the requirements of Bankruptcy Rule 4001 (a)(3) allowing an Order to be effective upon this Honorable Court's signature.

10. Movant hereby waives its right under 11 U.S.C. § 362(e) to a hearing on this Motion within thirty (30) days of the date it is filed.

THEREFORE, Movant requests that this Court terminate the Automatic Stay and enable Movant to enforce its state law remedies with respect to the real property described as See legal attached. . Commonly known as 6432 West 600 South, Trafalgar, IN 46181.

Respectfully submitted,

/s/ D. Anthony Sottile

D. Anthony Sottile (OH0075101)  
Reisenfeld & Associates, LPA LLC  
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Exhibit "A"

IN Mortgage, FHA w/MERS

Given By: Robert L Russell and Julia A Russell

*Survey 11*

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, SECTION 17<sup>N</sup> NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, JOHNSON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID QUARTER; THENCE SOUTH 89 DEGREES 26 MINUTES 29 SECONDS EAST ON AND ALONG THE SOUTH LINE THEREOF A DISTANCE OF 394.63 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 25 MINUTES 31 SECONDS WEST A DISTANCE OF 414.22 FEET; THENCE SOUTH 89 DEGREES 26 MINUTES 59 SECONDS EAST A DISTANCE OF 525.89 FEET; THENCE SOUTH 00 DEGREES 25 MINUTES 31 SECONDS EAST PARALLEL TO THE EAST LINE OF SAID QUARTER QUARTER SECTION A DISTANCE OF 414.22 FEET TO THE SOUTH LINE THEREOF; THENCE NORTH 89 DEGREES 26 MINUTES 59 SECONDS WEST A DISTANCE OF 525.89 FEET TO THE POINT OF BEGINNING, CONTAINING 5.00 ACRES, MORE OR LESS, SUBJECT HOWEVER TO ALL LEGAL RIGHTS-OF-WAY AND EASEMENTS OF RECORD. INCLUDING BUT NOT LIMITED TO 35 FEET BY PARALLEL LINE OFF THE ENTIRE SOUTH END OF THE PARCEL DEDICATED TO THE COUNTY OF JOHNSON AS RIGHT-OF -WAY FOR COUNTY ROAD 600 SOUTH.

*R.L.R. J.A.R.*

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served this 5th day of June, 2008 by regular U.S. Mail, postage prepaid, or by electronic filing upon the following:

Julia Ann Russell  
Robert Lewis Russell  
6432 West 600 South  
Trafalgar, IN 46181

Christopher Henry Belch, Esq.  
7748 Madison Avenue Suite D  
Indianapolis, IN 46227

Robert A. Brothers, Bankruptcy Trustee  
151 North Delaware Street, #1400  
Indianapolis, IN 46204

U.S. Trustee  
101 West Ohio Street Suite 1000  
Indianapolis, IN 46204

/s/ D. Anthony Sottile  
D. Anthony Sottile